

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JULIANNA CZERNYK, : : Civ. No. 21-cv-10429
: :
Plaintiff, : : **NOTICE OF REMOVAL**
: :
-against- : :
MICHAEL BONGIOVANNI, : :
: :
Defendant. : :
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PLEASE TAKE NOTICE that defendant Michael Bongiovanni (“Bongiovanni”), by and through his undersigned attorneys, hereby removes this action, pursuant to 28 U.S.C. § 1332(a), from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York. In support of this Notice of Removal, Bongiovanni states the following:

1. On October 22, 2021, Plaintiff commenced an action in the Supreme Court of the State of New York, Bronx County, captioned *Julianna Czernyk v. Michael Bongiovanni*, Index No. 814444/2021E, by electronically filing a Summons and Verified Complaint. A true and correct copy of the Summons and Verified Complaint is attached hereto as Exhibit A.
2. On November 5, 2021, Plaintiff filed a Verified Amended Complaint. A true and correct copy of the Verified Amended Complaint is attached hereto as Exhibit B.
3. The Verified Amended Complaint asserts claims against Bongiovanni under, *inter alia*, N.Y. Penal Law §§ 130.35, 130.50, 130.70 and NYC Admin. Code § 8-903.
4. On November 8, 2021, Defendant Michael Bongiovanni (“Bongiovanni”) accepted service of the Summons and Verified Complaint.

5. On November 29, 2021, Plaintiff and Bongiovanni entered into a joint stipulation to extend Defendant's time to answer until February 7, 2022. There have been no further pleadings in this action.

6. Bongiovanni maintains that Plaintiff's claims are meritless.

7. This Notice of Removal is being filed in the United States District Court for the Southern District of New York, the district in which the case is pending.

8. This Notice of Removal is being filed within thirty days of Bongiovanni's receipt of service of the Summons and Verified Amended Complaint, as required by 28 U.S.C. § 1446(b)(1).

9. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), because Plaintiff and Bongiovanni are citizens of different States, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

THE PARTIES ARE DIVERSE

10. As alleged in the Verified Amended Complaint, Plaintiff resided in New York at all relevant times. *See Exhibit B, ¶ 11.* Plaintiff is therefore a domiciliary of New York.

11. Bongiovanni lived in New York on a temporary basis while attending college, however Bongiovanni's domicile is New Jersey. Bongiovanni's permanent residence is in New Jersey, his Driver's License is issued by the State of New Jersey, he has bank accounts located in New Jersey, he has filed state income taxes as a resident of New Jersey, and he leases a car that is registered in New Jersey.

12. Plaintiff is a citizen of New York and Bongiovanni is a citizen of New Jersey, thus the parties are completely diverse under 28 U.S.C. § 1332(a).

13. The Verified Amended Complaint requests damages and punitive damages. The amount in controversy exceeds \$75,000.

CONCLUSION

14. Complete diversity exists between Plaintiff, a citizen of New York, and Bongiovanni, a citizen of New Jersey and the amount in controversy exceeds \$75,000. This Court therefore has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a).

15. Bongiovanni will provide Plaintiff with prompt written notice of the filing of this Notice of Removal, as required by 28 U.S.C. § 1446(d), and will file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Bronx, where the Verified Amended Complaint was originally filed.

WHEREFORE Bongiovanni respectfully requests that the above-captioned action be removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York.

Dated: New York, New York
December 7, 2021

Respectfully submitted,

ChaudhryLaw PLLC

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